

**DEPARTMENT OF STATE REVENUE
REVENUE RULING 96-02 DRAC
SEPTEMBER 18, 1996**

NOTICE: Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Withholding Tax - County of Principal Work Activity
Authority: Indiana Code 6-3.5-6-1

STATEMENT OF FACTS

The taxpayer is an interstate trucking firm. It has dispatch centers and terminals throughout the United States. One of its dispatch centers is located in Marion County.

Its drivers are generally on the road for 14 days and will then have 2 or 3 days off of work. The drivers do not take their trucks home with them. Each driver is assigned to a specific facility where a truck will be picked up and returned. The facility may or may not be the same facility from where the assignment is dispatched. Assignments are communicated to the drivers by computers that remain on board the trucks. In the past, the taxpayer based its assignment for county of principal work activity on the place from where the work was dispatched. However, due to recent internal changes, the dispatch facility is not always the same facility that garages and maintains the trucks. As a result, Marion County tax is being withheld from the wages of employees who rarely if ever enter Marion County for work related purposes.

The taxpayer questions the correct criteria to be used for purposes of establishing the county of principal work activity for its employees who are not residents of an adopting Indiana county.

DISCUSSION

Marion County has adopted the county option income tax. Nonresidents of adopting Indiana counties will be subject to the county tax at the nonresident rate if on January 1 of the tax year their county of principal work activity was an Indiana county that has adopted a county tax.

In determining the county of principal work activity, the Department looks to the place where the employee reports for work on a regular basis to receive his work assignment. In this case the facility where the employee picks up the truck at the beginning of his road time is the employee's location of principal work activity. The county of principal work activity is not the dispatch facility unless the dispatch facility is also the same place where the employee will pick up the truck at the beginning of his work assignment.

RULING

The Department rules the county of principal work activity shall be based on the facility to which the employee reports on a regular basis to pick up the truck and work assignment.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns or making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Indiana Department of Revenue